



February 13, 2023

The Right Honourable Justin Trudeau, P.C., M.P.
Prime Minister
Office of the Prime Minister
80 Wellington Street
Ottawa, ON K1A 0A2

Via Email (pm@pm.gc.ca; justin.trudeau@parl.gc.ca)

The Honourable Chrystia Freeland, P.C., M.P.
Minister of Finance
90 Elgin Street
Ottawa, ON K1A 0G5

Via Email (chrystia.freeland@fin.gc.ca; chrystia.freeland@parl.gc.ca)

The Honourable David Lametti, P.C., M.P.
Minister of Justice and Attorney General of Canada
284 Wellington Street
Ottawa, ON K1A 0H8

Via Email (david.lametti@parl.gc.ca)

Dear Prime Minister Trudeau, Minister Freeland, and Minister Lametti:

Re: 2023 Budget Consultations

We write in respect of your consultation for the 2023 federal budget.

The Federation of Ontario Law Associations (FOLA) represents Ontario's 46 county and district law associations and, through them, their members. Most of these members are lawyers in private practice, in small and medium-size firms across the province. These lawyers are on the front lines of the justice system and see its triumphs and shortcomings every day.

The justice sector is often overlooked in the budget process, and we would like to draw your attention to two priority areas for all Ontarians: funding for legal aid and resources to increase the capacity of the Ontario Superior Court of Justice.

*"The Voice of the
Practising Lawyer
in Ontario"*

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Legal Aid Funding

As a member of the Alliance for Sustainable Legal Aid (ASLA), FOLA echoes the comments made in ASLA's letter to you, dated December 23, 2022 (which, for convenience, you can download at <https://bit.ly/3lqcRKT>).

ASLA notes that at one time, the federal government contributed half of the funds needed to run Ontario's Legal Aid system. Its share has since diminished over time, and over that period, our legal aid system has fallen into decline and is not meeting the needs of Ontarians – particularly those who find themselves before criminal and family courts. Many of these individuals are from vulnerable communities or find themselves in precarious circumstances that they cannot navigate without the assistance of a legal aid lawyer.

While FOLA adopts as its submission the balance of ASLA's letter on this subject, we underscore the foundational problem of funding. We stress the need for the Government of Canada to commit to working with the provinces to establish a long-term, sustainable funding model for legal aid across Canada that includes a proportional increase and significant legal investment from the federal government in legal aid programs. Without these necessary investments, vulnerable Canadians will simply not have access to legal services in their time of need.

Resources for the Superior Court of Justice

We also want to use this opportunity to encourage the federal budget to account for necessary investments in the Ontario Superior Court of Justice.

First, we want to flag the need to fill judicial vacancies in Ontario. These vacancies are straining the system by increasing pressure on already-scarce judicial resources. This has created challenges for court scheduling, making it difficult for courts to deal with matters in a timely fashion. It also drives up costs to litigants when counsel have to appear only to have their matter not reached because a court sitting is overburdened with an unrealistic list.

Relatedly, it is crucial that federal budgets set aside resources to assist the provincial Attorneys General in their efforts to modernize and invest in courthouse infrastructure and technology. One way that the strain on judicial resources could be alleviated is by better resource allocation across the province, not only among court staff but on the bench. It is unacceptable that the same litigation matter in one region of Ontario might take a year or longer more to get before a judge simply because of the postal code where it originates. Improved technological capabilities and scheduling tools could assist in providing improved equality of access to superior courts so that matters can be disposed of or resolved in a more timely manner.

In considering these comments, we remind you of the Supreme Court of Canada's decision in *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59, in which Chief Justice McLachlin concluded that access to

justice is fundamental to the rule of law, and rule of law is fostered by the continued existence and availability of the superior courts. On this basis, section 96 of the *Constitution Act, 1867*, was found to confer a degree of constitutional protection for access to justice, particularly for civil matters. The courts have also repeatedly concluded (most notably in *Hyrniak v. Mauldin*, 2014 SCC 7), that timely access to justice is a challenge to the rule of law in Canada. These constitutional requirements cannot be fulfilled without more expedient federal action to fill vacancies and improve efficiency.

Conclusion

We trust that these comments are helpful in your budget deliberations for 2023. We remain available for further discussion or to provide further input or information to your offices. Please feel free to contact me directly at 807-861-3684 or info@douglasjudson.ca, or to email our executive director, Katie Robinette, at katie.robinette@fola.ca.

Thank you for considering our input.

Sincerely,



Douglas W. Judson
Chair

- C. Jim Kapches, Senior Policy Advisor, Office of the Prime Minister, *Via Email* (jim.kapches@pmo-cpm.gc.ca);
- County and District Law Association Presidents, *Via Email (various)*;
- FOLA Board, *Via Email (various)*;
- Lenny Abramowicz, Chair, ASLA, *Via Email* (lenny.abramowicz@aclco.clcj.ca)